

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
HARRY PASCAL,
on behalf of himself and all others similarly situated,

CLASS ACTION COMPLAINT

-against-

Plaintiff,

08 CIV. 4726
BRIEANT

DIVERSIFIED RECOVERY SOLUTIONS, LLC

Defendant

-----X
Plaintiff, by and through his undersigned attorney, alleges upon knowledge as to himself and his own acts, and as to all other matters upon information and belief, brings this complaint against the above-named defendant and in support thereof alleges the following:

PRELIMINARY STATEMENT

1. Plaintiff brings this action on his own behalf and on behalf of all others similarly situated for damages and declaratory and injunctive relief arising from the defendant's violation of §1692 *et seq.* of Title 15 of the United States Code, the Fair Debt Collections Practices Act (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. This is an action for violation of 15 U.S.C. § 1692.

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(2).

PARTIES

4. Plaintiff Harry Pascal (hereinafter “Pascal”) is a resident of the State of New York, Rockland County. On or about March 10, 2008, plaintiff received a debt collection notice from defendant Diversified Recovery Solutions, LLC.

5. Defendant Diversified Recovery Solutions, LLC (hereinafter “DRS ”) is a domestic limited liability company engaged in the business of collecting debts with its principal place of business located at 134C South Central Avenue, Elmsford, New York. Defendant regularly attempts to collect debts alleged to be due another.

CLASS ACTION ALLEGATIONS

6. Plaintiff brings this action as a nationwide class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure (hereinafter “FRCP”), on behalf of himself and all consumers who have received debt collection notices and/or letters from the defendant which are in violation of the FDCPA, as of the date of plaintiff’s complaint, and their successors in interest (the “Class”). Excluded from the Class is the defendant herein, and any person, firm, trust, corporation, or other entity related to or affiliated with the defendant, including, without limitation, persons who are officers, directors, employees, associates or partners of Diversified Recovery Solutions, LLC and Charles A. Toal.

7. This action is properly maintained as a class action. This Class satisfies all the requirements of Rule 23 for maintaining a class action.

8. The Class is so numerous that joinder of all members is impracticable. Upon information and belief, hundreds of persons have received debt collection notices from the defendant which violate various provisions of the FDCPA.

9. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. These common questions of law and fact include, without limitation:

a. Whether the defendant violated various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692e, 1692e(3), 1692e(10) and 1692e(14).

b. Whether plaintiff and the Class have been injured by the defendant's conduct;

c. Whether plaintiff and the Class have sustained damages and are entitled to restitution as a result of defendant's wrongdoing and, if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and

d. Whether plaintiff and the Class are entitled to declaratory and/or injunctive relief.

10. Plaintiff's claims are typical of the claims of the Class, and plaintiff has no interests adverse or antagonistic to the interests of other members of the Class.

11. Plaintiff will fairly and adequately protect the interests of the Class and has retained experienced counsel, competent in the prosecution of class action litigation.

12. A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted. Plaintiff anticipates that no unusual difficulties are likely to be encountered in the management of this class action.

13. A class action will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would engender. Class treatment also will permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein. Absent a class action the Class members will continue to suffer losses of statutorily protected rights as well as monetary damages and if defendant's conduct will proceed without remedy it will continue to reap and retain the proceeds of its ill-gotten gains.

14. Defendant has acted on grounds generally applicable to the entire Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

STATEMENT OF FACTS

15. On or about March 10, 2008, defendant did send to the plaintiff an initial collection letter bearing the letterhead of Charles A. Toal, 134C Saw Mill River Road, Elmsford, NY 10523. Said letter was enclosed in an envelope mailed from Montana ZIP Code 59405. Copies of said letter and envelope are annexed hereto as Exhibit A.

16. The March 10, 2008 letter was signed by facsimile signature, bore the NYC Department of Consumer Affairs license number assigned to Diversified Recovery Solutions, LLC and identified Mr. Toal's telephone number as 888-996-8693.

17. The March 10, 2008 collection letter indicated that Mr. Toal was "Legal Council."
[SIC.]

18. Upon information and belief, defendant Diversified Recovery Solutions, LLC address is 134C Saw Mill River Road, Elmsford, New York 10523.

19. Upon information and belief, Charles A. Toal maintains his practice of law at 216 Route 17, Tuxedo Park, NY 10987 with Telephone number (845) 351-5453.

20. Upon information and belief, Diversified Recovery Solutions, LLC is the entity which answers the telephone number 888-996-8693, which is purported to be Toal's telephone number.

21. As a result of defendant's abusive, deceptive and unfair debt collection practices, plaintiff has been damaged.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

22. Each of the above allegations is incorporated herein.

23. Defendant's debt collection attempts violate various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692e, 1692e(3), 1692e(10) and 1692e(14) by a collection agency using an attorney's letterhead and signature in furtherance of its attempt to collect a consumer debt.

24. As a result of defendant's violations of the FDCPA, plaintiff has been damaged and is entitled to statutory damages, costs and attorney's fees.

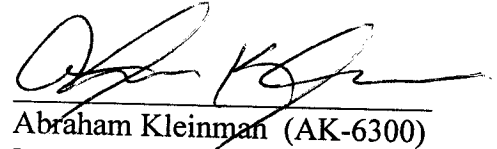
WHEREFORE, plaintiff respectfully requests that the Court enter judgment as follows:

- a) Declaring that this action is properly maintainable as a class action and certifying plaintiff as Class representative;
- b) Awarding plaintiff statutory damages;
- c) Awarding class members the maximum statutory damages.
- d) Awarding plaintiff costs of this action, including reasonable attorneys' fees and expenses; and
- e) Awarding plaintiff such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the FRCP, plaintiff hereby demands a trial by jury.

Dated: May 16, 2008
Uniondale, New York



Abraham Kleinman (AK-6300)
KLEINMAN LLC
626 RexCorp Plaza
Uniondale, New York 11556-0165
Telephone (516) 522-2621
Facsimile (888) 522-1692

LAW OFFICE
CHARLES A. TOAL
134C SAW MILL RIVER ROAD
ELMSFORD, NY 10523
PHONE: 888-996-8693

3/10/2008

HARRY PASCAL
65 REMSEN AVE PVT
MONSEY, NY 10952

Case #: 44553
Reference: 062218
Balance: \$176.24

Detach upper portion and return with payment/correspondence

Case #: 44553

Balance: \$176.24

Reference #: 062218

Date of Service: 09/06/2007

Re: Mt Sinai - Dept of Cardiology

Dept: New York, NY

Please be advised that Mt Sinai - Dept of Cardiology has contacted our office with regard to the above referenced past due amount. Please note that unless you notify this office within thirty (30) days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid.

If, however, you notify this office in writing within thirty (30) days from receiving this notice that you dispute the validity of this debt, this office will obtain written verification of the debt or obtain a copy of a judgment. Also, upon written request within thirty (30) days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Our client would like to resolve this matter as soon as possible. If the above account is not disputed, please forward payment in the enclosed envelope.

Yours truly,



Charles A. Toal, Esq.
888-996-8693

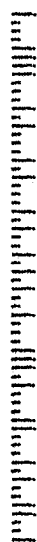
Legal Council - D.R.S. NYC Dept of Consumer Affairs License #1190468

The Law Office of Charles A. Toal, Esq.
134C Saw Mill River Road
Elmsford, NY 10523

HARRY PASCAL
65 REMSEN AVE PVT
MONSEY, NY 10952

**Detach upper portion and return with payment

AA50351 10352



US POSTAGE
042K02001022
ZIP 59405
\$00.31²
03/11/2008
PRST FIRST CLASS MAIL